ATTORNEY DOCKET NO. 53493.050001
U.S. SERIAL NO. 10/808,142

REMARKS

The Office Action has been received and carefully considered. The Office Action rejects claims 1-21, 23-40, 42, 43, 45-47, 58-64, and 82-92 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement, rejects claims 1-21, 23-40, 42-43, 45-47, 58-64, and 82-92 under 35 U.S.C. § 112, second paragraph, as allegedly using improper means plus function language, rejects claims 1-7, 11-16, 20, 21, 23, 24, 35-37, 39-43, 45-47, 58-64, 82-85, and 87-92 under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 5,786,816 to Macrae *et al.* ("Macrae") in view of U.S. Patent No. 6,047,259 to Campbell *et al.* ("Campbell"), rejects claims 8-10, 28-34, and 38 under 35 U.S.C. § 103(a) as allegedly being obvious over Macrae in view of Campbell in further view of U.S. Patent No. 6,314,556 to DeBusk *et al.* ("DeBusk"), rejects claims 17-19 under 35 U.S.C. § 103(a) as allegedly being obvious over Macrae in view of Campbell in further view of U.S. Patent No. 5,542,024 to Balint *et al.* ("Balint"), rejects claims 25-27 under 35 U.S.C. § 103(a) as allegedly being obvious over Macrae in view of Campbell and in further view of U.S. Patent Application Publication No. 2004/0039602 to Greenberg *et al.* ("Greenberg"), and rejects claims 86 under 35 U.S.C. § 103(a) as allegedly being obvious over Macrae in view of Campbell and in further view of U.S. Patent Application No. 2002/0035486 to Huyn *et al.* ("Huyn"). Applicant respectfully traverses these rejections. Reconsideration of claims 1-21, 23-40, 42-43, 45-47, 58-64, and 82-92 is respectfully requested based on the following remarks.

I.   The Objection To Claim 82 Is Improper

The Office Action objects to claim 82 because of alleged informalities. *See* Office Action, page 2. More specifically, the Office Action asserts that "[t]he limitations of collating, recording, automatically generating, enabling, and communicating each use a programmed computer, but it

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is unclear whether each limitation ... uses the same programmed computer or several different programmed computers." *Id.* Applicants respectfully submit that claim 82 properly covers using a programmed computer to perform the limitations of claim 82 and using multiple programmed computers to perform the limitations of claim 82. Therefore, claim 82 is not objectionable. Accordingly, Applicants respectfully submit that the objection to claim 82 is improper and should be withdrawn.

II. The Rejection Of Claims 1-21, 23-40, 42, 43, 45-47, 56-64, And 82-92 Under 35 U.S.C. § 112, First Paragraph, Is Moot

Claims 1-21, 23-40, 42, 43, 45-47, 58-64, and 82-92 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. *Id.* Applicants respectfully submit that the rejection to claims 1-21, 23-40, 42, 43, 45-47, 58-64, and 82-92 under U.S.C. § 112, first paragraph, is moot in view of the amendments to the claims submitted herein. Therefore, the rejection to the claims under U.S.C. § 112, first paragraph, should be withdrawn.

III. The Rejection Of Claims 1-21, 23-40, 42-43, 45-47, 58-64, And 82-92 Under 35 U.S.C. § 112, Second Paragraph, Is Moot

Claims 1-21, 23-40, 42-43, 45-47, 58-64, and 82-92 under 35 U.S.C. § 112, second paragraph, as allegedly using improper means plus function language. *See* Office Action, page 3. Applicants respectfully submit that the rejection to claims 1-21, 23-40, 42-43, 45-47, 58-64, and 82-92 under U.S.C. § 112, second paragraph, is moot in view of the amendments to the claims submitted herein. Therefore, the rejection to the claims under U.S.C. § 112, second paragraph, should be withdrawn.

IV. The Cited References Fail To Teach Or Suggest Navigation Means That Permit The Healthcare Practitioner To Traverse A Route Across The Map That Skips One Or More Nodes From The Series Of The Plurality Of Interlinked Nodes Representing A Currently Traversed Care Pathway

Claim 1, as amended, recites that an "navigation means arranged to enable the healthcare practitioner to choose the node to traverse next independently of the node suggested by the pathway means, the navigation means being further arranged to permit the healthcare practitioner to traverse a route across the map that *skips one or more nodes from the series of the plurality of interlinked nodes representing a currently traversed patient care pathway, wherein the skipping comprises refraining from executing one or more intervening nodes between a last executed node and a next executed node along the currently traversed patient care pathway.*" Claims 46, 47, 58, 82, and 92, the only other independent claims contain similar limitations. The cited references fail to teach or suggest these limitations.

Applicant respectfully asserts that neither these passages nor any other portion of Macrae teaches or suggests "the navigation means being further arranged to permit the healthcare practitioner to traverse a route across the map that *skips one or more nodes from the series of the plurality of interlinked nodes representing a currently traversed patient care pathway, wherein the skipping comprises refraining from executing one or more intervening nodes between a last executed node and a next executed node along the currently traversed patient care pathway,*" as presently claimed. To illustrate the differences between Macrae and the claimed invention, Applicants refer to Figure 1 and Figure 2 below:
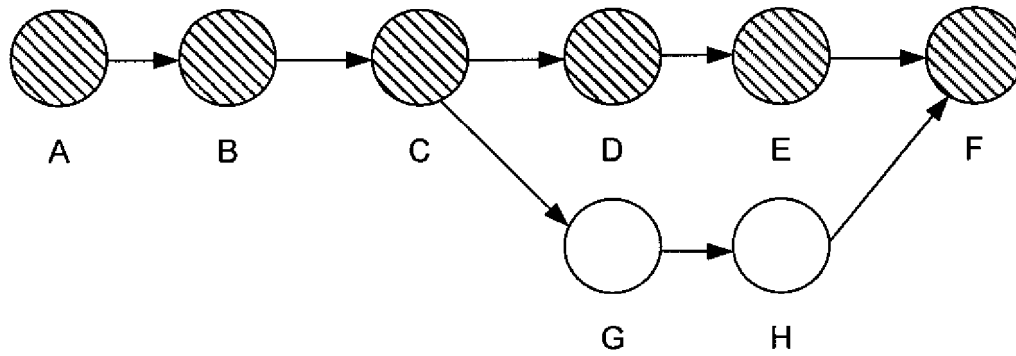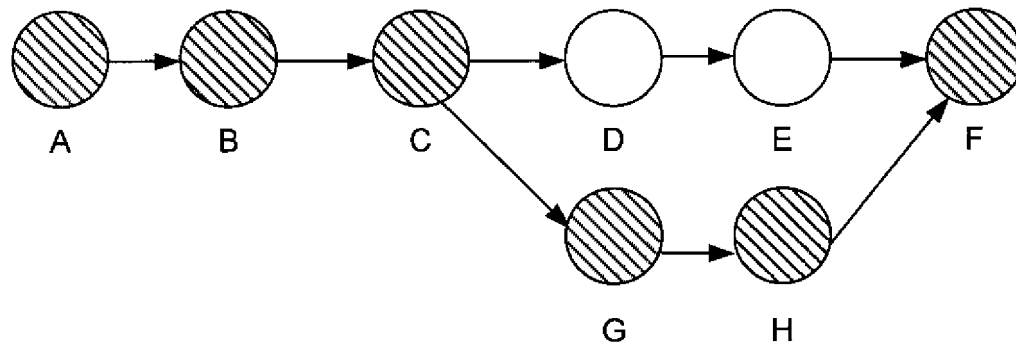
Figure 1

Figure 2

In general, Figure 1 and Figure 2 both illustrate a plurality of interlinked nodes, such as nodes A to H. Figure 1 illustrates a first patient care pathway as indicated by the cross-hatched nodes. The first patient care pathway of Figure 1 includes a first series of a plurality of interlinked nodes. For example, the first series of a plurality of interlinked nodes includes nodes A, B, C, *D*, *E*, and F. Likewise, Figure 2 illustrates a second patient care pathway as indicated by the cross-hatched nodes. The second patient care pathway of Figure 2 includes a second series of a plurality of interlinked nodes. For example, the second series of a plurality of interlinked nodes includes nodes A, B, C, *G*, *H*, and F.

If a healthcare practitioner that is using the Macrae system elects to follow the first patient care pathway as illustrated in Figure 1, then the first patient care pathway becomes a currently

traversed patient care pathway. By traversing the first patient care pathway, however, the healthcare practitioner is not skipping nodes G and H because these nodes do not form part of the series of nodes that represent the currently traversed pathway. Indeed, the pathway that is currently traversed includes nodes A, B, C, D, E, and F, each of which must be executed by the healthcare practitioner of Macrae in sequential order.

At most, the healthcare practitioner of Macrae may force the plan to branch at node C in order to follow the first patient care pathway as illustrated in Figure 1 or the second patient care pathway as illustrated in Figure 2. Forcing the plan to branch at a node, however, is not the same as skipping one or more nodes as recited in claim 1. Indeed, forcing the plan to branch at a node is simply a way that the healthcare practitioner of Macrae selects which pathway to traverse. The nodes in a chosen pathway, however, cannot be skipped as taught by Macrae. For example, if traversing the second patient care pathway as illustrated in Figure 2, the healthcare practitioner of Macrae could not progress from node B to node G without also traversing node C. Therefore, Applicants respectfully submit that Macrae fails to teach or suggest "the navigation means being further arranged to permit the healthcare practitioner to traverse a route across the map that *skips one or more nodes from the series of the plurality of interlinked nodes representing a currently traversed patient care pathway, wherein the skipping comprises refraining from executing one or more intervening nodes between a last executed node and a next executed node along the currently traversed patient care pathway,*" as presently claimed.

As noted in previous responses, whereas Macrae is concerned with predefined rules and control flow, the claimed invention is concerned with allowing the user to navigate his own route through a map without being restricted by rules or predefined control flow. In the claimed

invention, the healthcare practitioner chooses his own route and is not required to follow a particular path from start to finish or follow a predefined order of steps as required in Macrae.

By permitting the user to skip nodes from a series of nodes, the same map can be used for various patients without having to first customize or build it for a specific patient. For example, the same map may be used when diagnosing or treating multiple patients at varying stages of a condition or treatment. If the healthcare practitioner knows that a particular node is not relevant for a certain patient, he may simply skip that node when traversing the map. Or, if the healthcare practitioner is already familiar with the information contained at the node, he may simply skip that node when traversing the map. By allowing nodes to be skipped, the claimed invention allows the healthcare practitioner to traverse a workflow more quickly and efficiently than the cited references.

Under 35 U.S.C. § 103, all claim limitations must be taught or suggested in the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). MPEP § 2143 reinforces this principle: "[T]he prior art reference (or references when combined) must teach or suggest all the claim limitations." Because the cited references fail to disclose or suggest "navigation means arranged to enable the healthcare practitioner to choose the node to traverse next independently of the node suggested by the pathway means, the navigation means being further arranged to permit the healthcare practitioner to traverse a route across the map that skips one or more nodes from the series of the plurality of interlinked nodes representing a currently traversed patient care pathway, wherein the skipping comprises refraining from executing one or more intervening nodes between a last executed node and a next executed node along the currently traversed patient care pathway," a rejection over the cited references would be improper.

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V. Conclusion

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.
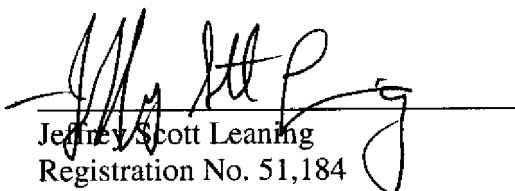
In the event that a variant exists between the amount tendered and that determined by the U.S. Patent and Trademark Office to enter this Reply or to maintain the present application pending, please charge or credit such variance to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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Dated: August 27, 2009

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